



## MONTANA SECRETARY OF STATE

LINDA McCULLOCH

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EXHIBIT # 1  
DATE Jan 21<sup>st</sup> 2011  
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HB99: Generally revise absentee and mail ballot laws  
House State Admin, Rm 335  
January 21, 2011 @ 8:00 a.m.  
Secretary Linda McCulloch's Testimony

- Good morning Mr. Chair, members of the committee. For the record, I am Linda McCulloch, Montana Secretary of State.
- Thank you Representative Ingraham for sponsoring this legislation for our office.
- I am here this morning in support of House Bill 99, a general "clean-up" bill to clarify existing laws and to make absentee voting processes and mail ballot voting processes uniform where possible.
- As was the case with the general clean-up bill I brought before you last week, this bill is the result of a careful review of absentee voting laws found in Title 13, Chapter 13, and mail ballot laws found in Title 13, Chapter 19.
- These are mail ballot processes in existing law, and has nothing to do with HB130, the Vote by Mail bill. Let me stress that **House Bill 99** is important, regardless of what happens to the Vote-By-Mail proposal.
- HB 99 addresses the need to synchronize certain processes for absentee and mail ballot voting, including two areas that had different procedures in statute – which caused confusion for voters and for administrators:
  - 1) the process for issuing replacement ballots
  - 2) the process for resolving ballot problems.

### Replacement Ballots:

- Let's take a look at **13-19-305**, which addresses mail ballots, and **13-13-204**, which addresses absentee ballots.
- Under the absentee voting process, current statute says a voter can receive a replacement ballot if the ballot was "**not received or destroyed.**"
- Under the mail ballot process, current statute says a voter can receive a replacement ballot if the ballot was "**destroyed, spoiled, lost, or not received.**"
- The inconsistency in language suggests absentee ballots and mail ballots have different circumstances for when a replacement ballot can be issued.

- To fix this, we moved the language in the mail ballot process for replacement ballots, to the absentee section, and refer to that section (13-13-204) in the mail ballot section of law, thus making the processes consistent whether it is a replacement ballot for absentee voting or for mail ballot voting.

**Resolving problems:**

- **13-19-313** (mail ballot) contains provisions for resolving problems with a returned mail ballot, but there is no similar provision to resolve problems with absentee ballots.
- To fix this, we've added a new section – **Section 7** (located in **13-13-241**) – which was drafted to incorporate provisions in **13-19-313** (mail ballot).
- This new section ensures that the same procedures are followed for absentee and mail ballots when there are questions to resolve – like what an election administrator should do when they are unable to verify a voter's signature.
- In addition to these two examples, House Bill 99 contains additional clean-up language and necessary synchronization and clarification of statute.
- House Bill 99 is important, regardless of what happens to the Vote-By-Mail proposal.
- Montana's current absentee and mail ballot voting processes need to be as similar as possible, to avoid confusion by both voters and election administrators.
- I ask that you support this bill, because it's needed to ensure fair and accurate elections in Montana. Thank you for your time this morning.